

AMENDED IN SENATE APRIL 2, 2009

**SENATE BILL**

**No. 431**

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**Introduced by Senator Benoit**

February 26, 2009

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An act to amend Section 1203.9 of the Penal Code, relating to probation.

LEGISLATIVE COUNSEL'S DIGEST

SB 431, as amended, Benoit. Probation: transfers.

Existing law provides that whenever any person is released upon probation, the case may be transferred to any court of the same rank in any other county in which the person resides permanently, provided that the court of the receiving county shall first be given an opportunity to determine whether the person does reside in and has stated the intention to remain in that county for the duration of probation. Existing law provides that if the court finds that the person does not reside in or has not stated an intention to remain in that county for the duration of probation, it may refuse to accept the transfer.

~~This bill would make a technical, nonsubstantive change to these provisions.~~

*This bill would provide that the transfers would be mandatory, unless the receiving court makes a determination on the record that the transfer would be inappropriate.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1203.9 of the Penal Code is amended to read:

1203.9. (a) Whenever any person is released upon probation, the case ~~may~~ *shall* be transferred to any court of the same rank in any other county in which the person resides permanently, meaning the stated intention to remain for the duration of probation; provided that the court of the receiving county shall first be given an opportunity to determine whether the person does reside in and has stated the intention to remain in that county for the duration of probation. If the court finds that the person does not reside in or has not stated an intention to remain in that county for the duration of probation, the court may refuse to accept the transfer. The court and the probation department shall give the matter of investigating those transfers precedence over all actions or proceedings therein, except actions or proceedings to which special precedence is given by law, to the end that all those transfers shall be completed expeditiously.

(b) ~~Except as provided in subdivision (c), if~~ *If* the court of the receiving county finds that the person does permanently reside in or has permanently moved to the county, ~~it may, in its discretion, either the court shall accept the entire jurisdiction over the case, or assume supervision of the probationer on a courtesy basis unless there is a determination on the record that the transfer would be inappropriate.~~

(c) Whenever a person is granted probation under Section 1210.1, the sentencing court ~~may, in its discretion,~~ *shall* transfer jurisdiction of the entire case, upon a finding by the receiving court of the person's permanent residency in the receiving county, *unless there is a determination on the record that the transfer would be inappropriate.*

(d) The order of transfer shall contain an order committing the probationer to the care and custody of the probation officer of the receiving county and an order for reimbursement of reasonable costs for processing the transfer to be paid to the sending county in accordance with Section 1203.1b. A copy of the orders and probation reports shall be transmitted to the court and probation officer of the receiving county within two weeks of the finding by that county that the person does permanently reside in or has

1 permanently moved to that county, and thereafter the receiving  
2 court shall have entire jurisdiction over the case, with the like  
3 power to again request transfer of the case whenever it seems  
4 proper.

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